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AUG 30 2004

Federal Communications Commission
Office of Secretary

Before the
Federal Communications Commission
Washington, DC

In the Matter of)
)
Amendment of Section 73.202(b),) **MM Docket No. 00-148**
Table of Allotments,) **RM-9939**
FM Broadcast Stations.) **RM-10198**
(Quanah, Texas, *et al.*))

Filed With: **Office of the Secretary**
Directed to: **The Commission**

**MOTION FOR ACCEPTANCE OF RESPONSE AND
RESPONSE TO REPLY TO OPPOSITION TO APPLICATION FOR REVIEW**

J. & J. Fritz Media, Ltd. (formerly Fritz Broadcasting Co., Inc.) ("Fritz"), by its attorney, hereby respectfully requests that the Commission accept and consider the Response contained herein with regard to the "Reply to Opposition of Fritz to Application for Review" filed by Rawhide Radio, LLC, Capstar TX Limited Partnership, CCB Texas Licenses, L.P., and Clear Channel Broadcasting Licenses, L.P. ("Joint Parties"), filed August 16, 2004, in the above-captioned proceeding. With respect thereto, the following is stated:

MOTION FOR ACCEPTANCE OF RESPONSE

Fritz recognizes that the pleading cycle normally would end with the Joint Parties' Reply. Fritz's review of the Joint Parties' Reply, however, revealed that the Joint Parties have mischaracterized statements made and misstated arguments advanced by Fritz in its Opposition to Application for Review. Therefore, the following brief Response is necessary in order to set the record straight and to provide the Commission with accurate information for its consideration. Accordingly, Fritz hereby requests that the Commission accept and consider the following

Response.

RESPONSE

The Joint Parties assert in their Reply that Fritz has conceded that the Joint Parties advanced an alternative proposal on which the Commission could act separately within their Counterproposal as originally filed. Reply at 2. Such is not the case, however. Rather, Fritz merely noted that while there was a section of the Counterproposal entitled “KVCQ Alternative,” the Joint Parties were equivocal at best as to any separation of that proposal from the rest of the rule making proceeding. Indeed, the Joint Parties specifically indicated their desire to have that proposal processed within the context of the instant rule making proceeding. Counterproposal at ¶67. Thus, Fritz did not and does not concede that the Commission could or should have acted separately on one portion only of the Joint Parties’ counterproposal, nor that a request to process a proposal within one particular rule making proceeding is equivalent to a request to start a new rule making proceeding.

The Joint Parties also assert that Fritz has argued that a new Notice of Proposed Rule Making and that previously dismissed rule making petitions should be reinstated. Fritz did not argue for this outcome at all, however. Rather, it merely noted that these actions must inevitably follow if the Commission were to adopt the Joint Parties’ rather fanciful notion of going back to some not entirely clear point in time to reinstate one portion of the Counterproposal *nunc pro tunc*. If the Commission and all affected parties were to pretend that the Joint Parties, instead of filing a defective counterproposal, had filed an acceptable petition for rule making, then the Commission would likewise be forced to go back and undo the dismissals of other rule makings when then would have become improper. It is quite clear, however, that Fritz did not and does

not favor such an exercise in fiction. As noted in Fritz's Reply, any such actions would create a procedural morass, whereby the Commission would be required to figure out what "should have" happened with various petitions had matters been other than they were and then consolidate all of newly revived proposals, along with possible additional proposals, in one massive proceeding. It appears that the primary interest served by such a plan would be not the public but rather only those who earn fees from participating in the lengthy proceedings that would inevitably ensue as various parties argued the relative merits of their competing proposals. Fritz has never favored or indicated support for such an outcome.

WHEREFORE, the premises considered, Fritz hereby respectfully requests that its Response be accepted and considered and reiterates its request that Joint Petitioners' Application for Review be denied.

Respectfully submitted,

J. & J. FRITZ MEDIA, LTD.

By: 

Dan J. Alpert

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August 30, 2004

Its Attorney

CERTIFICATE OF SERVICE

I, Dan J. Alpert, do hereby certify that on this 30th day of August, 2004, I caused copies of the foregoing "Reply to Opposition to Motion for Extension of Time" to be mailed, first class postage prepaid, addressed to the following persons:

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